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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,528	01/16/2004	Mark S. Lee	361752000910	5602
25227	7590	03/03/2005	EXAMINER	
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			TARAZANO, DONALD LAWRENCE	
			ART UNIT	PAPER NUMBER
			1773	

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Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER
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Commissioner for Patents

The applicants' representative, Raj Dave, contacted the examiner to find out why Tanaka et al. (2002/0182426) could be applied against the claims in the instant application.

The examiner notes that applicants have a priority date of 10/12/2001.

While Tanaka et al. was filed on May 17, 2002, the patent has priority back to serial number 08/609,997, which was filed on February 29, 1996.

While the applicants cite the Hilmer Doctrine and state that the reference does not apply; this is irrelevant for two reasons.

The reference itself is applicable under 102(e) having an effective filing date of 2/29/1996.

This notwithstanding, the applicants should have recognized that the two Japanese priority documents are very old (March 2, 1995) and would have published long before the applicants' priority date. They would clearly be applicable under 35 USC 102(b) if the disclosures contain the appropriate information. Since these documents are in Japanese, the examiner felt that it was easier to apply the US reference under 25 U.S.C. 102(e) than to have the Japanese priority documents translated and then apply them under 35 U.S.C. 102 (b), even though this might be considered a stronger rejection. The examiner has attached a patent family tree to show the publication dates of other members in the Tanaka et al. family of patents. Many of which published before the applicants' priority date.

I hope that this clears up any question of why the reference was applied.

D. Lawrence Tarazano  
Primary Examiner  
Art Unit: 1773